

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN**

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**JOHN MILLER**

**Plaintiff**

**v.**

**05-C-0828**

**DAVID ASBACH, et al.,**

**Defendants**

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**ORDER**

Plaintiff filed this case on August 4, 2005. Pursuant to Fed. R. Civ. P. 4(m) plaintiff had 120 days from filing within which to effect service of the complaint upon the defendants. That time period expired on December 2, 2005, yet no proof of service has been submitted to the court to date with respect to defendant Arthur R. Jones, deceased. Further, defendant has yet to comply fully with Fed. R. Civ. P. 4(i)(B), which requires that plaintiff send a copy of the summons and of the complaint by registered or certified mail to the Attorney General of the United States. As no service appears to have been effected within the 120-day period, Rule 4(m) and Civil L.R. 41.1 allow me to dismiss the case without prejudice as to them upon my own initiative after twenty days notice to the plaintiff. This order gives plaintiff that notice and will allow him a brief extension to secure service and file appropriate proof thereof.

Because plaintiff proceeds pro se, I hereby put him on notice that certain rules govern how to effect proper service of the complaint and summons. I am enclosing for his benefit copies of Fed. R. Civ. P. 4, which control the matter. If personal service is

necessary, plaintiff should file as proof a notarized affidavit from the person effecting service or other proof as allowed by Rule 4 or section 801.11. An affidavit regarding service should include the date, time, and location of personal service, a listing of the documents served (which must include the complaint and summons), and the name of the person who personally took possession of them.

**THEREFORE IT IS ORDERED** that plaintiff has 21 days from the date of this order within which to serve the remaining defendants and file proof of that service with the clerk of court. Plaintiff is hereby put on notice that if he fails to comply with this order this case will be dismissed as to the defendants that have not been served.

Dated at Milwaukee, Wisconsin, this 25 day of May, 2006.

/s \_\_\_\_\_  
LYNN ADELMAN  
District Judge